

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**USDC-SDNY
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UNITED STATES OF AMERICA,

v.

LEWIS STAHL,

Defendant.

No. 18-cr-694 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

In September 2018, Defendant Lewis Stahl pleaded guilty to tax evasion in violation of 26 U.S.C. § 7201 for the tax years 2010 through 2014. In March 2019, he was sentenced to a term of 30 months imprisonment and three years of supervised release, as well as required to pay a fine and restitution. He began serving his sentence at FCI Miami in September 2019, and is currently housed there today. On April 3, 2020, Stahl filed an emergency motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A), seeking compassionate release in light of COVID-19. *See* Dkts. 46, 47. The Government filed an opposition to Stahl's request on April 7, 2020. *See* Dkts. 49, 52. Stahl filed a reply on April 8, 2020, *see* Dkt. 50, and the Government filed a sur-reply later that same day, *see* Dkt. 51.

Stahl is 64 years old and maintains that he has several serious health conditions, including obesity, high blood pressure, and a heart condition for which he underwent angioplasty and stenting in July 2019, prior to surrendering. *See* Def. Mot., Dkt. 47, at 12; Gov't Opp'n, Dkt. 49, at 8. Since late February 2020, Stahl has submitted a number of internal requests to the Bureau of Prisons (the "BOP"), seeking to be released from FCI Miami, although the parties dispute whether

all of these requests were received and which constitute an administrative request for purposes of exhaustion with respect to this motion. *See* Def. Mot. Ex. A (February 24, 2020 request to be placed in the BOP’s Pilot Program for elderly offenders under 34 U.S.C. § 60541(g));¹ Def. Reply Ex. A (March 16, 2020 request for thirty-day furlough in light of his medical conditions and COVID-19); Def. Reply Ex. B (March 23, 2020 request to be furloughed and/or transferred to home confinement in light of his medical conditions and COVID-19); Def. Reply Ex. C (March 28, 2020 request to be transferred into home confinement, or alternatively to be granted a thirty-day furlough to home confinement, in light of his medical conditions and COVID-19). To date, the BOP has not responded to Stahl’s internal requests.

No later than April 16, 2020, the Government shall advise the Court whether the BOP intends to grant Stahl’s motion for compassionate release under Section 3582, or whether it intends to grant Stahl what the Court views as the most appropriate result under the present circumstances, a furlough under 18 U.S.C. § 3622(a) for the duration of the COVID-19 pandemic. The Court is aware that a temporary release under Section 3622 “is committed to sole discretion of the BOP.” *United States v. Roberts*, No. 18-CR-528-5 (JMF), 2020 WL 1700032, at *3 (S.D.N.Y. Apr. 8, 2020); *see also, e.g., United States v. Hernandez*, No. 19 Cr. 834 (PAE), 2020 WL 1445851, at *1 (S.D.N.Y. Mar. 25, 2020) (“The statute authorizing temporary release of prisoners [for certain purposes], 18 U.S.C. § 3622(a), does not apply, as the determination whether to grant such release resides with the Bureau of Prisons, not the sentencing court.”). But while the authority to grant Stahl a furlough pursuant to Section 3622(a) is undoubtedly vested in the BOP, “nothing in the law prevents this Court from recommending release from [FCI Miami] and to home detention in


¹ According to the Government, the February 24, 2020 request was not among the internal records it received from the BOP “showing the administrative requests submitted by Stahl to the BOP,” and thus the Government has not been able to “confirm that the February 24, 2020 [request] was ever submitted to the BOP.” *See* Gov’t Sur-Reply, Dkt. 51, at 1 n.1.

the strongest possible language.” *United States v. Schaefer*, No. 07-cr-498 (LJL) (S.D.N.Y.), Dkt. 73, at 4.

In light of the unprecedented threat that COVID-19 poses, particularly within many of the BOP’s jails and prisons throughout the country, and the health conditions that Stahl has articulated, which very well may put him at a heightened risk of suffering serious complications from the virus if contracted, the Court respectfully but strenuously urges the BOP to consider temporarily releasing him pursuant to Section 3622(a) until the threat of COVID-19 has passed. *See, e.g., Roberts*, 2020 WL 1700032, at *3; *Schaefer*, Dkt. 73, at 4. Accordingly, no later than April 16, 2020, the Government is directed to advise the Court whether the BOP intends to grant Stahl’s internal requests, including whether it plans to release him temporarily pursuant to 18 U.S.C. § 3622(a).

SO ORDERED.

Dated: April 10, 2020
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', written over a horizontal line.

Ronnie Abrams
United States District Judge